

REMARKS

In the Office Action dated June 6, 2005, claims 1, 3-9, 12, 15, 19-21 and 28 stand rejected under 35 U.S.C. § 103(a) as obvious U.S. Patent No. 5,061,481 to Suzuki et al. (“Suzuki ‘481”) in view of U.S. Patent No. 4,970,252 to Sakuta et. al (“Sakuta ‘252”) and Abamba (Poucher’s Perfumes, Cosmetics and Soaps). Claims 1, 8, 9, 12, 20-21 and 28 stand rejected under 35 U.S.C. §103 as obvious over U.S. Patent No. 5,496,554 to Mellul et. al (“Mellul ‘544”) in view of Sakuta ‘252 and Abamba. Claims 1, 8, 10-11, 13-14, 20-21, 23 and 26-28 stand rejected under 35 U.S.C. §103 as obvious over U.S. Patent No.: 5,853,711 to Nakamura et al. (“Nakamura”) in view of Sakuta ‘252. Claims 1 and 15-18 stand rejected under 35 U.S.C. §103 over U.S. Patent No. 5,236,986 to Sakuta (“Sakuta ‘986”) in view of Sakuta ‘252. Finally, Claim 25 stands rejected under 35 U.S.C. §103 over Suzuki ‘481 and Sakuta ‘252 in view of U.S. Patent No. 6,121,373 (“Starch ‘373”) to Starch.

In view of the above, Applicants have amended claim 1, cancelled claims 26-28, and added new claims 29-30. Support for the amendment of claim 1 is found in examples 3-5 at pages 39-41 and examples 30-31 found at pages 70-72. Support for claim 29 is found in examples 3-5. Support for claim 30 is found in cancelled claim 22. Claims 1, 3-21, 23, 25 and 29-30 remain in the application for continued prosecution.

Applicants submit that claim 1, as amended, is not obvious over the cited prior art of record. Specifically, claim 1 have been amended to specify that the cosmetic has low temperature stability as determined by the lack of phase separation observed by the naked eye after the cosmetic has been stored at 0°C and subsequently returned to room temperature. At page 41 of the specification, Applicants set forth a table comparing the inventive cosmetics of examples 3-5 with the prior art cosmetics of comparative examples 3 and 4. The inventive cosmetics differ from the prior art cosmetics by their use of M3T. As the Examiner will note, the

prior art cosmetics suffered visible phase separation while the inventive examples did not. Applicants also point out that all the other inventive cosmetics set forth in the examples exhibited excellent stability. For example, the creams set forth in examples 30-31, which contained 5 wt% M3T, all exhibited superior stability since these cosmetics did not change with temperature or time.

Based on the cited rejections, the Examiner's contends that M3T and other silicone oils are equivalents when used in cosmetics. However, Applicants' data proves that this is not the case. None of the cited prior art, alone or in combination, teach or suggest the superior stability provided by the use of M3T in combination other silicone oils conventionally used in cosmetics. Therefore independent claim 1 and its respective dependent claims are not obvious over the cited prior art. Withdrawal of the rejections is respectfully requested.

Applicants do not believe that any additional fees are due. However, if any additional fees are due, please charge such sums to our Deposit Account 50-1145.

Respectfully submitted,



Gerald Ley
Reg. No. 24,419

Lindsay S. Adams
Reg. No. 36,425

Attorneys for Applicants

Pitney Hardin LLP
7 Times Square
New York, NY 10036-7311
(212) 297-5800